

September 19, 2006

MUR # 5819

Lawrence Norton, Esq.
 General Counsel
 Federal Election Commission
 999 E Street, N.W., 6th Floor
 Washington, D.C. 20463

2006 SEP 20 P 2:57

FEDERAL
OFFICE OF GENERAL
COUNSEL

Dear Mr. Norton:

We, the undersigned, are residents of the State of Hawaii. We write this complaint to request an immediate and thorough investigation into the U.S. Chamber of Commerce's robocall activities in Hawaii, conducted in apparent violation of the Federal Election Campaign Act (the "Act"), 2 U.S.C. §§ 431 et seq., and related regulations of the Federal Election Commission ("FEC" or the "Commission"), 11 C.F.R. §§ 100.1 et seq. Specifically, the U.S. Chamber of Commerce appears to have violated the Act by using corporate treasury funds to finance one or more series of robocalls that expressly advocate the election of Ed Case.

The Act and Commission regulations prohibit the use of corporate funds to finance communications made to the general public that expressly advocate the election or defeat of a federal candidate. 2 U.S.C. § 441b; 11 C.F.R. part 114. Commission regulations define "expressly advocating" to include any communication that "when taken as a whole and with limited reference to external events, such as the proximity of the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because – (1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and (2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action." 11 C.F.R. § 100.22.

Based on information and belief, on Friday, September 15, 2006, a resident of Honolulu, Hawaii named _____ received an automated message to her home voicemail, a digital recording of which is provided on CD with this complaint. The message begins, "Hello, I have an important message for **absentee voters** about **Congressman Ed Case**" (emphasis added). The caller then proceeds to describe Mr. Case in glowing terms and directs the listener to a U.S. Chamber of Commerce website called www.movehawaiiforward.com. The automated message closes with: "This message was paid for by the U.S. Chamber of Commerce. Thank you." So far as I have been able to determine, neither _____ nor any member of her household is a member


of the U.S. Chamber of Commerce; she appears to have been selected for the call simply because she is a member of the general public who is a potential absentee voter.

The message specifically targets "absentee voters" to hear an "important message about Congressman Ed Case." Because the call, taken as a whole, is "unmistakable, unambiguous, and suggestive of only one meaning" –to encourage absentee voters to cast their ballots in favor of Mr. Case – it clearly meets the express advocacy standard. Therefore, under 2 U.S.C. § 441b and 11 C.F.R. part 114, this series of robocalls constitutes an illegal expenditure by the U.S. Chamber of Commerce of behalf of Mr. Case.

For these reasons, we respectfully submit that the Commission should immediately investigate the U.S. Chamber of Commerce's expenditures on behalf of Mr. Case, and determine the extent of the Chamber of Commerce's illegal expenditures in support of Mr. Case through its targeted messages to encourage absentee voters to support Mr. Case. We ask that the Commission seek the highest civil penalties available under the law, and take whatever other action it deems necessary or appropriate under the law.

Our below signatures are verified and sworn before a notary public.

Very truly yours,


James J. Bickerton
Barry A. Sullivan

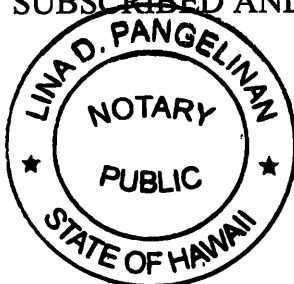
Encl. as stated

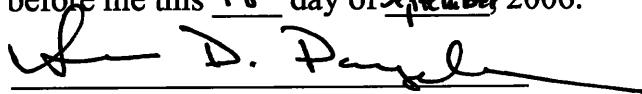
STATE OF HAWAII

COUNTY OF HONOLULU

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) SS.
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SUBSCRIBED AND SWORN to before me this 18th day of September, 2006.




Notary Public

My Commission Expires: 11/25/2009

BICKERTON ■ SAUNDERS ■ DANG ■ SULLIVAN